

### **Section 30b. No Protected Status Based on Homosexual, Lesbian or Bisexual Orientation.**

Neither the State of Colorado, through any of its branches or departments, nor any of its agencies, political subdivisions, municipalities or school districts, shall enact, adopt or enforce any statute, regulation, ordinance or policy whereby homosexual, lesbian or bisexual orientation, conduct, practices or relationships shall constitute or otherwise be the basis of or entitle any person or class of persons to have or claim any minority status, quota preferences, protected status or claim of discrimination. This Section of the Constitution shall be in all respects self-executing.

**Source: Initiated 92:** Entire section added, see **L. 93**, p. 2164.

**Editor's note:** (1) Although this section was numbered as section 30 as it appeared on the ballot, for ease of location, it has been numbered as section 30b.

(2) In the case **Evans v. Romer**, Denver District Court found this section unconstitutional and permanently enjoined its enforcement (see **Evans v. Romer**, 854 P.2d 1270 (Colo. 1993)). The Colorado Supreme Court affirmed the district court's ruling (see **Evans v. Romer**, 882 P.2d 1335 (Colo. 1994)), and the United States Supreme Court affirmed the Colorado Supreme Court's ruling (517 U.S. 620, 116 S.Ct. 1620, 134 L.Ed.2d 855 (1996)).

#### **ANNOTATIONS**

**Law reviews.** For article, "A Tale of Three Theories: Reason and Prejudice in the Battle over Amendment 2", see 68 U. Colo. L. Rev. 287 (1997). For article, "Sometimes Better Boring and Correct: Romer v. Evans as an Exercise of Ordinary Equal Protection Analysis", see 68 U. Colo. L. Rev. 335 (1997). For article, "When Baehr Meets Romer: Family Law Issues After Amendment 2", see 68 U. Colo. L. Rev. 349 (1997). For article, "Bowers v. Hardwick Diminished", see 68 U. Colo. L. Rev. 373 (1997). For article, "The Missing Pages of the Majority Opinion in Romer v. Evans", see 68 U. Colo. L. Rev. 387 (1997). For article, "Romer v. Evans: The People Foiled Again by the Constitution", see 68 U. Colo. L. Rev. 409 (1997). For article, "Romer v. Hardwick", see 68 U. Colo. L. Rev. 429 (1997). For article, "What's So Special About Special Rights?", see 75 Den. U. L. Rev. 1265 (1998).

**The right to participate equally in the political process is affected** by this section because it bars gay men, lesbians, and bisexuals from having an effective voice in governmental affairs insofar as those persons deem it beneficial to seek legislation that would protect them from discrimination based on their sexual orientation; it alters the political process so that a targeted class is prohibited from obtaining legislative, executive, and judicial protection or redress from discrimination absent the consent of a majority of the electorate through the adoption of a constitutional amendment. *Evans v. Romer*, 854 P.2d 1270 (Colo. 1993).

**In upholding preliminary injunction entered by trial court enjoining state officials from enforcing voter-initiated amendment to constitution**, court determined that such amendment must be subject to strict judicial scrutiny in determining whether it is constitutionally valid under the equal protection clause. *Evans v. Romer*, 854 P.2d 1270 (Colo. 1993).

**This section is not necessary to serve any compelling governmental interest in a narrowly tailored way.** It is not narrowly tailored to serve the compelling governmental interest of ensuring the free exercise of religion or preserving associational privacy, nor are the preservation of fiscal resources, the promotion of public social and moral norms, the prevention of governmental support of political objectives of a special interest group, or the deterrence of factionalism compelling governmental interests served by this section. *Evans v. Romer*, 882 P.2d 1335 (Colo. 1994), *aff'd*, 517 U.S. 620, 116 S. Ct. 1620, 134 L. Ed. 2d 855 (1996).

**This section is not severable;** portions that would remain if only the provision concerning sexual orientation were stricken are not autonomous and therefore not severable. *Evans v. Romer*, 882 P.2d 1335 (Colo. 1994), *aff'd*, 517 U.S. 620, 116 S. Ct. 1620, 134 L. Ed. 2d 855 (1996).

**This section is not a constitutionally valid exercise of state power** under the tenth amendment. *Evans v. Romer*, 882 P.2d 1335 (Colo. 1994), *aff'd*, 517 U.S. 620, 116 S. Ct. 1620, 134 L. Ed. 2d 855 (1996).